

REMARKS

Claims 132-179 are currently pending in the instant application. The Examiner states that the Information Disclosure Statement filed by the Applicants on February 5, 2001 fails to comply with 37 CFR 1.98(a)(3) because, referring to foreign patent JP04247567, it does not include a concise explanation of the relevance of each patent listed that is not in the English language. In addition, the Examiner states that foreign patents JP 06096089 and JP 06119309 have not been considered, as the translations contained highlighting prior to submission, whereupon the scanning process rendered the documents unreadable. On June 20, 2005, the Applicants filed an amendment and Information Disclosure Statement that included the Abstracts of the aforementioned referenced patents. The Applicants submit that the Information Disclosure Statement filed on June 20, 2005 fully complies with 37 CFR 1.98 (see also MPEP 609, which states an English language Abstract may be submitted in lieu of a foreign language patent).

On the merits, the Examiner has rejected claims 132-179 under 35 U.S.C. 103. The Applicants traverse the outstanding rejections and submit that claims 132-179 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested.

Rejections under 35 U.S.C. 103

Claims 132, 137-140, 142-144, 156, 161-164, and 166-168 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Harbert "Searching for .COM-ponents" (hereinafter "Harbert") in view of Press Release "DesignWin Upgrade Tackles Key OEM Supply Chain Management Issues (hereinafter "DesignWin") and U.S. Patent No. 6,167,385 to Hartley-Urquhart (hereinafter "HU").

Claims 133-136, 141, 157-160, and 165 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Harbert in view of DesignWin and HU as applied to claim 136 and further in view of U.S. Patent No. 5,712,985 to Johnson et al. (hereinafter "Johnson").

Claims 145-155 and 169-179 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable in view of DesignWin and HU and further in view of Johnson.

The Applicants traverse the outstanding rejections of claims 132-179 for at least the reasons presented herein.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

The Applicants submit that the Examiner has failed to establish a *prima facie* case of obviousness. With respect to independent claims 132 and 156, none of the cited references, either alone or in combination, teach or suggest the features recited therein. The Examiner states with respect to claims 132 and 156 that Harbert discloses each of the claimed features except for “identifying purchase prices of components that are incurred by the at least one supply chain entity that manufactures products using the components, the products subject to purchase by the manufacturing enterprise under an agreement with the at least one supply chain entity; comparing the purchase prices incurred by the at least one supply chain entity with purchase prices available to the manufacturing enterprise for the same components from a component supplier; for components in which the at least one supply chain entity incurs a purchase price greater than the purchase price available to the manufacturing enterprise, generating and transmitting to the component supplier a request to authorize the at least one supply chain entity to purchase a quantity of the component from the component supplier at the purchase price available to the manufacturing enterprise; in response to an affirmative response by the component supplier, generating and transmitting an authorization letter to the at least one supply chain entity, the authorization letter authorizing the at least one supply chain entity to purchase the component

directly from the component supplier,” which the Examiner states is taught by HU (and cites personal knowledge); and “tracking selected activities in a log,” for which the Examiner relies on DesignWin.

Harbert relates to the topic of online sourcing and procurement of electronic components (page 1, paragraphs 1-2). This seven-page reference provides generalized statements regarding various procurement models and does not supply specific details as to any particular software implementation or solution. As stated in the Office Action, HU is relied upon for allegedly teaching comparing prices paid by the manufacturing enterprise with prices paid by a supplier, and requesting authorization for the supplier to buy the component at the lower price available to the manufacturer, citing column 2, lines 21-35 in support. In fact, HU simply teaches a financing arrangement implemented by a finance institution, to a supplier at the buyer’s lower finance cost. Thus, the method of HU relates to the “financing” of goods and is not related to procurement functions (i.e., purchasing of goods). HU specifically teaches “the buyer generates a purchase order for the goods which is forwarded to the supplier who in turn ships the goods to the buyer. The supplier sends an invoice to the buyer which stores the invoice data in a database. The financing institution electronically accesses the database to retrieve the daily invoices...*then calculates the financing applicable to the shipped good and forwards a payment to the supplier*” (Abstract, emphasis added).

The Examiner further states on page 5 of the Office Action that the cited features are well known in the art and further indicates that an affidavit to this effect can be submitted. The Applicants are unclear how to respond to the Examiner’s personal statement of knowledge. If the Examiner is relying upon Official Notice, then the Applicants respectfully submit that the Examiner’s use of Official Notice in this circumstance is improper. MPEP § 2144.03 defines when it is proper to use Official Notice. In particular, the MPEP states “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” The MPEP also states “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” The MPEP gives as an example specific knowledge of the

art. In this case, the features ““identifying purchase prices of components that are incurred by the at least one supply chain entity that manufactures products using the components, the products subject to purchase by the manufacturing enterprise under an agreement with the at least one supply chain entity; comparing the purchase prices incurred by the at least one supply chain entity with purchase prices available to the manufacturing enterprise for the same components from a component supplier; for components in which the at least one supply chain entity incurs a purchase price greater than the purchase price available to the manufacturing enterprise, generating and transmitting to the component supplier a request to authorize the at least one supply chain entity to purchase a quantity of the component from the component supplier at the purchase price available to the manufacturing enterprise; in response to an affirmative response by the component supplier, generating and transmitting an authorization letter to the at least one supply chain entity, the authorization letter authorizing the at least one supply chain entity to purchase the component directly from the component supplier” are not capable of instant and unquestionable demonstration as being well-known. Applicants therefore assert that it is improper to rely on Official Notice for the features recited in claims 132 and 156.

With respect to claims 132 and 156, the Examiner states that DesignWin teaches “tracking selected activities in a log.” However, DesignWin teaches a method for enabling OEMs to reduce design costs (paragraph 4). The reference teaches tracking probable costs during the design process by accessing archived pricing histories and current market figures (paragraph 4), but fails to disclose tracking selected activities in a log as recited in Applicants’ claims 132 and 156.

For at least the aforementioned reasons, the Applicants submit that none of Harbert, DesignWin, and HU, either alone or in combination, teach or suggest each of the elements recited in claims 132 and 156.

Moreover, the Applicants submit that there is no motivation to combine the references as required to establish a *prima facie* case of obviousness pursuant to 35 U.S.C. 103. Harbert discloses several inefficiencies with the state of art as it relates to supply chain management at or around the time of the invention. Harbert discloses “because of the inefficiencies in procurement in [the electronic component procurement] industry...a number of entities have said, ‘wow, if I

can just leverage the Internet to make these communications between buyer and seller easier”” (page 1, paragraph 2). Some of the disclosed inefficiencies specify customers’ discomfort with negotiating online, preferring to deal directly with a person (page 2); attracting sufficient inventory (page 2), the time and effort required online versus directly calling a broker (page 2, paragraph 6), distributors’ fear of disintermediation (page 4, paragraph 5).

In the Final Office Action, the Examiner states that it would have been obvious to modify the combine the web-implemented bid request, analysis, and supplier awards allegedly taught by Harbert, with the alleged logging of selected activities (DesignWin) and the price component comparisons and authorizations to directly purchase from a manufacturer’s vendor (HU). However, the aforementioned inefficiencies disclosed in Harbert lend support for the Applicants’ position that it would not have been obvious to combine the references.

For at least these reasons, the Applicants submit that claims 132 and 156 are in condition for allowance. Claims 133-144 depend from what should be an allowable base claim. Claims 157-168 depend from what should be an allowable base claim. For at least these reasons, the Applicants submit that claims 132-144 and 156-168 are in condition for allowance and respectfully request reconsideration and withdrawal of the rejections.

Independent claims 145 and 169 recite substantially similar features as claims 132 and 156. Claims 145 and 169 further recite, *inter alia*, “wherein said processing said bill of material file includes associating physical attributes of components listed on said bill of material file with corresponding business attributes of said components; and wherein further said processing said bill of material file includes mapping items contained in said bill of material file from said manufacturing enterprise with items provided by external sources via said network.” The Examiner introduces Johnson for allegedly teaching these features.

The Applicants submit that claims 145 and 169 are patentable over Harbert in view of DesignWin and HU and further in view of Johnson for at least the reasons presented above with respect to claims 132 and 156. As indicated above with respect to claims 132 and 156, none of the cited references, namely, Harbert, DesignWin, and HU teach or suggest the recited features. Thus, the Examiner’s reliance on Johnson as allegedly teaching “wherein said processing said bill of material file includes associating physical attributes of components listed on said bill of

material file with corresponding business attributes of said components; and wherein further said processing said bill of material file includes mapping items contained in said bill of material file from said manufacturing enterprise with items provided by external sources via said network” would not cure the deficiencies of claims 145 and 169. For at least these reasons, the Applicants submit that claims 145 and 169 are patentable over Harbert in view of DesignWin and HU and further in view of Johnson. Claims 146-155 depend from what should be an allowable claim 145. Claims 170-179 depend from what should be an allowable claim 169. For at least these reasons, the Applicants submit that claims 146-155 and 170-179 are in condition for allowance and respectfully request reconsideration and withdrawal of the outstanding rejections.

CONCLUSION

No new matter has been entered and no additional fees are believed to be required. However, if any fees are due with respect to this Response, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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